

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

AARON LAMBERT,)	
)	
Plaintiff,)	
)	
v.)	No. 12-2924-STA-cgc
)	
HMS INCORPORATED d/b/a THE)	
SALON AT MACY’S and ERICA)	
SMITH)	
)	
Defendants.)	

**ORDER ADOPTING THE MAGISTRATE JUDGE’S REPORT AND
RECOMMENDATION DISMISSING PLAINTIFF’S COMPLAINT FOR FAILURE TO
PROSECUTE**

On October 23, 2012, Plaintiff Aaron Lambert (“Plaintiff”) filed a *pro se* complaint against HMS Incorporated, d/b/a The Salon at Macy’s (“HMS”) and Erica Smith (“Smith”) (D.E. #1). The Complaint alleges claims under Title VII of the Civil Rights Act of 1964. On January 16, 2013, the Court entered an Order Denying Motion for Appointment of Counsel, Order of Partial Dismissal, and Order for Plaintiff to Further Identify Defendant (D.E. # 5). The Order concluded that the Complaint did not assert a valid claim against Smith and dismissed her. The Order also directed Plaintiff to submit any further information about the corporate identity of HMS within thirty days so that HMS could be served. The Court advised Plaintiff that a “failure to respond to this Order within the time specified will result in dismissal of the action without prejudice for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b).” Plaintiff

did not timely respond to the District Court's Order.

On March 28, 2013, the Court referred the case to the Magistrate Judge Charmiane Claxton for case management and for all pretrial matters for determination or report and recommendation as appropriate (D.E. # 8). On September 18, 2013, the Magistrate Judge issued an Order to Show Cause (D.E. # 11) directing Plaintiff to "submit any further information he may have about the corporate identity of HMS within fourteen days of the entry of this Order." The Magistrate Judge again advised Plaintiff that failure to respond would result in the Magistrate Judge recommending dismissal of the action without prejudice for failure to prosecute. Plaintiff did not file a response to the Court's Order or the Magistrate Judge's Order to Show Cause. Therefore, on October 8, 2013, the Magistrate Judge issued a Report and Recommendation (D.E. # 12) recommending that Plaintiff's claim against HMS be dismissed without prejudice for failure to prosecute pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

The parties have not filed objections to the Report and Recommendation. The Court hereby adopts the Magistrate Judge's Report and Recommendation pursuant to Fed. R. Civ. P. 72(b)(3). Therefore the Court **ADOPTS** the Report and Recommendation. Consistent with the Report and Recommendation Plaintiff's Complaint is **DISMISSED without prejudice**.

IT IS SO ORDERED.

s/ **S. Thomas Anderson**
S. THOMAS ANDERSON
UNITED STATES DISTRICT JUDGE

Date: October 23, 2013.